

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Criminal No. 11-0042-003

Civil Case No. 13-01150

ELECTRONICALLY FILED

MARCUS ALLEN,

Defendant.

MEMORANDUM ORDER OF COURT RE: CERTIFICATE OF APPEALABILITY

On August 12, 2013, this Court denied *pro se* Defendant's Motion to Vacate his 96 month stipulated sentence of imprisonment pursuant to 28 U.S.C. § 2255. Doc. No. 1264. Defendant has appealed this Order to the United States Court of Appeals for the Third Circuit. Doc. No. 1276. This Court has been instructed by the Clerk of the United States Court of Appeals for the Third Circuit to issue a certificate of appealability or state why a certificate of appealability should not issue. Doc. No. 1282.

A certificate of appealability should not issue pursuant to 28 U.S.C. § 2253 because Defendant has not made a substantial showing of a denial of a constitutional right. As set forth more fully in the Court's Order denying Defendant Motion to Vacate (Doc. No. 1264), Defendant was sentenced by this Court to 96 months imprisonment, which was the stipulated sentence contained within Defendant's binding plea agreement. This Court conducted an extensive colloquy prior to Defendant's change of plea and his sentencing and found that Defendant knowingly and voluntarily waived his right to a jury trial and his right to appeal his sentence except in certain specific circumstances which do not apply. Therefore, Defendant has

not demonstrated that reasonable jurists would find his sentence or the Court's denial of his Motion to Vacate debatable or wrong. As such, this 26th day of September, 2013, IT IS HEREBY ORDERED THAT no certificate of appealability should issue.

s/ Arthur J. Schwab
Arthur J. Schwab
United States District Judge

cc: All Registered ECF Counsel and Parties

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